

Office of the
CLARK COUNTY LAND USE HEARING EXAMINER

1300 Franklin Street
P.O. Box 9810
Vancouver WA 98668-9810
Phone (360) 397-2375

NOTICE TO PARTIES OF RECORD

PROJECT NAME: Westminstershireville Subdivision
CASE NUMBERS: PLD2009-00022, SEP2009-00038

The attached decision of the Land Use Hearing Examiner will become final and conclusive unless a written appeal is filed with the Board of Clark County Commissioners, 6th floor, Public Service Center, 1300 Franklin Street, Vancouver, Washington, no later than 5:00 p.m. on, **August 18, 2009** (14 calendar days after written notice of the decision is mailed).

The Hearing Examiner's procedural SEPA decision is final and not appealable to the Board of County Commissioners.

All other appeals must be written and contain the information required under CCC 40.510.030(H), and placed in the following preferred format:

1. Project Name
2. Case Number
3. Name and signature of each petitioner: The name and signature of each petitioner and a statement showing that each petitioner is entitled to file the appeal under Section 40.510.030(H)(1). If multiple parties file a single petition for review, the petition shall designate one (1) party as the contact representative for all contact with the responsible official.
4. Introduction:
Provide a brief history of the case. This should include a chronology of dates of related applications, cases numbers, and a description of the proposal as it relates to the decision being appealed
5. Standard of Review:
Describe what standard of review (i.e., board's discretion to reverse the examiner's decision) you believe applies to board's review of the alleged errors (e.g., substantial evidence for challenges to findings of fact; de novo review for code interpretation; or, clearly erroneous for issues involving application of code requirements to particular facts).
6. Alleged Errors/Response to Alleged Errors:
Identify the specific aspect(s) of the decision being appealed, the reasons why each aspect is in error as a matter of fact or law, and the evidence relied on to prove the error (i.e., reference the relevant exhibits and passages, court cases, etc.).

The appeal fee is **\$716**

The Board of Commissioners shall hear appeals of decisions based upon the written record before the examiners, the examiner's decision, and any written comments received in the office of the Board within the following submittal deadlines measured from the date of the filing of the appeal:

- Fourteen (14) calendar days for the appellant's initial comments;
- Twenty-eight (28) calendar days for all responding comments; and,
- Thirty-five (35) calendar days for appellant reply comments, which are limited to the issues raised in the respondent's comments.

Written comments shall be limited to arguments asserting error in or support of the examiner decision based upon the evidence presented to the examiner.

Unless otherwise determined by the Board for a specific appeal, the Board shall consider appeals once a month, on a reoccurring day of each month. The day of the month on which appeals are considered shall be consistent from month to month as determined by Board.

The Board may either decide the appeal at the designated meeting or continue the matter to a limited hearing for receipt of oral argument. If continued, the Board of Commissioners shall designate the parties or their representatives to present argument, and permissible length thereof, in a manner calculated to afford a fair hearing of the issues specified by the Board of Commissioners. At the conclusion of its public meeting or limited hearing for receipt of oral legal argument, the Board of Commissioners may affirm, reverse, modify or remand an appealed decision.

Mailed on: **August 4, 2009**

PROJECT NAME: Westminstershireville
PROJECT NUMBER: PLD2009-00022,
SEP2009-00038
HEARING DATE: 7/23/09

LOUISE RICHARDS(Original copy)
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WESTMINSTERSHIREVILLE SUBDIVISION
PLD2009-00022; SEP2009-00038
HEARING DATE: 7/23/09

PLANNER: JAN BAZALA
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**BEFORE THE LAND USE HEARINGS EXAMINER
FOR CLARK COUNTY, WASHINGTON**

In the matter of a Type III application
for a 17-lot single-family residential
subdivision on approximately 5.51
acres zoned R1-10 in unincorporated
Clark County, Washington.

FINAL ORDER

**Westminstershireville
PLD2009-00022, SEP2009-00038**

I. Summary:

This Order is the decision of the Clark County Land Use Hearings Examiner approving with conditions this application for a 17-lot single-family residential subdivision and related approvals (PLD2009-00022, SEP2009-00038 & WET2009-00026) – on approximately 5.51 acres zoned R1-10.

II. Introduction to the Property and Application:

Applicant and Owner Troy Johns
14801 NE 13th Circle
Vancouver, WA 98684

Contact Minister Glaeser Surveying, Inc.
Attn: David Rosenberger
2200 East Evergreen Blvd.
Vancouver, WA 98661

Property Legal Description: Tax lot 44 (Parcel number 199875-000), located in the northeast, northwest, southeast and southwest quarters of Section 33, Township 3 North, Range 2 East of the Willamette Meridian. Street Address: 10212 NE 107th Street.

Applicable Laws Clark County Code (CCC) Title 15 (Fire Prevention), Section 40.220.010 (Single-Family Residential District), Section 40.320.010 (Landscaping), Section 40.350, (Transportation), Section 40.350.020 (Transportation Concurrency), Chapter 40.380 (Storm Water Drainage and Erosion Control), Sections 40.500 and 40.510 (Procedures), Section 40.540 (Land Division Ordinance), Section 40.570 (SEPA), Section 40.570 (SEPA Archaeological), Section 40.610 (Impact Fees), Title 24 (Public Health), RCW 58.17, and the Clark County Comprehensive Plan.

The 5.51-acre site is zoned R1-10, which allows single-family residential subdivisions outright, subject to preliminary plat review and approval. The development site consists of a single parcel (parcel number 199875-000) generally located in the northeast corner of the intersection of NE 102nd Avenue and NE 107th Street. The property is within Vancouver's Urban Growth Area, the territory of the Sunnyside Neighborhood Association, Park Improvement District 6, Fire District 5, the North Orchards Transportation District, and the Battle Ground School District. Clark Regional

Waste Water District provides sewer service, and City of Vancouver provides water service to the area.

Lots in this development are proposed to range from 9,341 sf to 17,361 sf, with an average of 15,000 sf. As currently configured, there is an existing home on the property that will be retained on Lot 11. There do not appear to be any sensitive lands or critical habitat issues associated with this development.

The application includes the original application and plans (Exs. 5 & 6), a revised preliminary plat and related plans (Ex. 12), notes from the November 20, 2008 preapplication conference (Ex. 6, tab 3), a preliminary drainage report and stormwater plan (Ex. 6, tabs 16 & 17), a traffic study (Ex. 6, tab 8), water and sewer service provider letters (Ex. 6, tabs 11 & 12, respectively), a letter from the Battle Ground School District addressing student routes to near-by schools (Ex. 6, tab 9), a memo addressing stormwater flow direction and system sizing (Ex. 13), a letter volunteering to construct turning lanes at the intersection of NE 88th Avenue and NE 94th Street in order to attain concurrency (Ex. 14), a wetland report (Ex. 6, tab 15), an archaeological predetermination report (Ex. 6, tab 13), landscape plan (Ex. 6, tab 20) and a SEPA checklist (Ex. 6, tab 10).

III. Summary of the Local Proceeding and the Record:

A preapplication conference for this subdivision was requested on October 30, 2008 and held November 20, 2008 (Ex. 6, tab 3). An application was submitted on May 6, 2009 (Exs. 5 & 6) and was deemed fully complete on May 20, 2009 (Ex. 7). From this sequence, this development is deemed vested as of October 30, 2008. Notice of the Type III application and a July 23, 2009 public hearing on the application was mailed to property owners within 300 feet and the Sunnyside Neighborhood Association on June 3, 2009 (Exs. 8 & 9). Notices of the application and hearing were also posted on and near the site on July 8, 2009 (Exs. 15 & 16). The County received no appeals or comments on the SEPA Determination by the submission deadline of June 17, 2009. One comment from a neighboring property owner (Steve Howell) was received (Ex. 10). Staff issued a comprehensive report on the project on July 8, 2009 (Ex. 17) recommending approval with conditions.

At the commencement of the July 23rd hearing, the Hearings Examiner explained the procedure and disclaimed any ex parte contacts, bias, or conflict of interest. No one objected to the proceeding, notice or procedure. No one raised any procedural objections or challenged the Examiner's ability to decide the matter impartially, or otherwise challenged the Examiner's jurisdiction.

At the hearing, Jan Bazala, County planning staff on the project, David Botamini, engineering staff, provided verbal summaries of the project, the staff report and the various agency and departmental comments already in the record. David Rosenberger, design engineer with Minister Glaeser Surveying, Inc., represented the applicant, described the project, explained details and responded to questions. No one else requested an opportunity to testify and no one requested a continuance or that the record be left open. The Examiner closed the record at the conclusion of the July 23rd hearing and took the matter under consideration.

IV. Findings:

Only issues and approval criteria raised in the course of the application, during the hearing or before the close of the record are discussed in this section. All approval criteria not raised by staff, the applicant or a party to the proceeding have been waived as contested issues, and no argument with regard to these issues can be raised in any subsequent appeal. The Examiner finds those criteria to be met, even though they are not specifically addressed in these findings. The Examiner adopts the following findings related to issues and criteria that were addressed in the staff report:

LAND USE:

Land Use Finding 1 - Development Standards: This site is zoned R1-10, and is therefore subject to the following dimensional requirements set forth in Table 40.220.010-2:

- Average minimum lot width—80 feet
- Average minimum lot depth—90 feet
- Minimum lot area—10,000 sf
- Maximum average lot area —15,000 sf

One lot is less than 10,000 sf, which is allowed under 40.200.040.C.2. One lot exceeds the maximum average of 15,000 sf; however, the 17 lots average (overall) less than 15,000 sf. Lot 9 on the original plan was only 80 feet deep, whereas 90 feet is required. A revised plan was submitted (Ex. 12) that shows Lot 9 and all the other lots meeting lot depth, width and area requirements. The development is also subject to the following R1-10 zone setbacks, as set forth in Table 40.220.010-3:

- Front – 20 feet
- Side – 5 feet
- Rear – 5 feet
- Street side – 10 feet
- Setbacks to temporary turnarounds – 10 feet to living space, 15 feet to garages

Land Use Finding 2 – Landscaping: Table 40.320.010-1 requires a five foot wide L-1 landscape buffer along the west perimeter of the site, as the property to the west is zoned UR-10 and is separated by the proposed NE 102nd Avenue, a partial width street. This buffer is proposed on the east side of 102nd Avenue, in the front yards of the lots. A 10-foot wide L-3 buffer is required and proposed along the north property line. Street trees in compliance with the Standard Details Manual will be required in the right of way along NE 107th Street. Installation of the street trees will be required prior to final plat; installation of the west and north landscaping buffers will be required prior to final occupancy of the lots. A final landscape plan showing the buffers noted above shall be submitted with the final plat. See Conditions A-9, D-7 & F-2.

Land Use Finding 3 – Existing easement: The existing 60 foot wide easement recorded under Assessor's File 8503050082 along the west property line has not been extinguished. It appears unlikely that future use of this 60-foot easement will occur, since road access will be provided by the applicant to the north property line. Staff finds that while the likelihood of future use is very small, it is not zero. Therefore, any stormwater facilities constructed within the easement should not be accepted for maintenance by the county. See Conditions A-6e and D-5c.

Land Use Finding 4 – Shared Driveways: Lots 15 and 16 are dependent on a driveway easement across Lots 14 and 17. Only three dwelling units may be served by the driveway easement; therefore, at a minimum, Lot 14 or Lot 17 will need to take access off of the temporary turnaround or NE 102nd Avenue. The final plat should indicate which of these lots may and may not access the private driveway. See Condition D-2h.

Land Use Finding 5 – Student Transportation: The applicant provided a letter from the Battle Ground School District stating the students will be bused to school (Ex. 6, tab 9).

ARCHAEOLOGY:

Finding 1: The state Department of Archaeology and Historic Preservation reviewed the applicant's archaeological pre-determination report (Ex. 6, tab 13). The state concurred that no additional work will be required, however the standard condition regarding discovery of resources will be applied. See Condition A-4. The Examiner finds that the proposed preliminary plan, subject to conditions identified above, meets the archaeology requirements of the Clark County Code.

WETLANDS:

Finding 1: The county has confirmed through a wetland pre-determination (WET2009-00035) that no wetlands are present on the site.

TRANSPORTATION:

Transportation Finding 1 – Pedestrian/Bicycle Circulation Plan: CCC 40.350.010 requires pedestrian circulation facilities that comply with the Americans with Disabilities Act. The proposal complies with the requirements of the pedestrian circulation code.

Transportation Finding 2 – Road Circulation: The applicant provided a circulation proposal that staff determined met with the circulation code requirements in CCC 40.350.030(B)(2). The Examiner agrees.

Transportation Finding 3 – Roads: NE 107th Street is classified as an Urban Collector, C-2, for which the required minimum frontage improvements include 30 feet of right-of-way, 19 feet of paved width, curb, gutter, and detached sidewalk. The minimum intersection curb return radius that is required is 35 feet. The applicant proposes to construct the minimum required improvements. The existing NE 107th Street between the site and NE 94th Avenue has a substandard width. In addition, NE 94th Avenue south of NE 107th Street also has a substandard width. CCC 40.350.030(B)(6)(b)(1) requires all public roads providing access to parcels being developed to have a minimum unobstructed and paved roadway width of 20 feet, except in those cases where the pre-existing road is 18 feet wide with one-foot wide shoulders in which additional widening to the 20-foot standard is not necessary. Any pre-existing roadway narrower than 18 feet with one-foot shoulders shall be widened to the full 20 foot standard. See Condition A-3.

The applicant proposes a partial width roadway (NE 102nd Avenue) with a temporary turnaround near the terminus. The applicant shall provide clear space behind the sidewalk of NE 102nd Avenue per the local access road cross-sections. The

minimum required intersection curb return radius is 25 feet for a local residential access road. See Condition A-2a. NE 107th Street and NE 102nd Avenue are proposed to be partial width roadways. CCC 40.350.030 (B)(5)(a)(5) prohibits parking along partial width roads, with signs and pavement markings being the responsibility of the developer. See Condition A-2b. CCC 40.350.030(B)(9)(b)(2) provides that the future removal of a temporary turnaround and extension of the sidewalk shall be the responsibility of the developer that extends the road. See Condition D-2e.

The applicant proposes an on-site Urban Cul-de-sac road consisting of NE 108th Street and NE 103rd Court; the proposed improvements exceed the required improvements of standard drawing #15 that includes a 26-foot paved width. The proposed improvements include a 46-foot wide right-of-way, 28-foot paved width, curbs, gutters, and detached 5-foot sidewalks. CCC 40.350.030 (B)(4)(b)(1)(b) requires that corner lot driveways have a minimum separation of 50 feet from the intersecting property lines. Where this is impractical, the driveway may be located 5 feet from the property line away from the intersection or as a joint use driveway at this property line. See Condition A-2c.

Transportation Finding 4 – Sight Distance: The applicant submitted a sight distance analysis dated May 6th, 2009 (Ex. 6, tab 8) indicating that sight distance will be sufficient at the proposed intersection of NE 102nd Avenue and NE 107th Street and is sufficient at the intersection of existing NE 94th Avenue and NE 105th Street. The applicable sight distances requirements intersections and driveways are set forth in CCC 40.350.030(B)(8). Additional building setbacks may be required for corner lots to maintain adequate sight distance. The final engineering plans shall show sight distance triangles for all corner lots. Driveways shall have an unobstructed sight distance of 100 feet in both directions, except those that are on corner lots. Landscaping, trees, utility poles, and miscellaneous structures will not be allowed to impede required sight distances. See Condition A-2d.

TRANSPORTATION CONCURRENCY:

Finding 1 - Trip Generation: The applicant submitted a traffic study (Ex. 6, tab 8) estimating that this 17-lot single-family residential subdivision will generate 12 weekday a.m. peak-hour trips and 16 new the p.m. peak-hour trips using nationally accepted data published by the Institute of Transportation Engineers. The applicant submitted a traffic study under the provisions of CCC 40.350.020 (D)(1). The site is located at 10212 NE 107th Street in Vancouver.

Finding 2 - Site Access: Traffic conditions are usually expressed using a scale that quantifies the ability of a facility to meet the needs and expectations of the driver. This scale is graded from A to F and is referred to as level-of-service (LOS). A driver who experiences an LOS A condition would expect little delay. A driver who experiences an LOS E condition would expect significant delay, but the traffic facility would be just within its capacity to serve the needs of the driver. A driver who experiences an LOS F condition would expect significant delay with traffic demand exceeding the capacity of the facility with the result being growing queues of traffic. Congestion, or concurrency, level of service (LOS) standards are not applicable to site accesses or intersections that are not regionally significant; however, the LOS analysis provides information on the potential congestion and safety problems that may occur in the vicinity of the site. The applicant's traffic study shows that the proposed development will take direct

access onto NE 107th Street. Once on NE 107th Street, trips generated by the proposed development will enter onto NE 94th Avenue to the west and NE 105th Street to the south. Staff's analysis indicated that the intersections of NE 107th Street/site access, NE 107th Street/NE 94th Avenue and NE 105th Street/NE 94th Avenue will have a level-of-service (LOS) C or better in the 2012 build out horizon. The LOS was evaluated in the p.m. peak hour traffic conditions.

Finding 3 - Concurrency: The proposed development is required to meet the standards in CCC 41.350.020(G) for corridors and intersections of regional significance within one mile of the proposed development. The applicant's study shows a one-mile radius study area, which includes regionally significant unsignalized and signalized intersections. County Staff has performed an evaluation of the operating levels, travel speed and delay standards represented in the County's model. The County's model consists of the study intersections and corridors of regional significance in the development area. The County's model yielded operating levels, travel speeds and delay standards during the p.m. peak hour with a LOS better than the minimum allowable LOS E for unsignalized intersections, except for NE 94th Avenue/NE 88th Street.

NE 94th Avenue/NE 88th Street: The intersection of NE 94th Avenue/NE 88th Street is projected to operate at a LOS F in the 2012 Concurrency horizon. This intersection is anticipated to meet signal warrants, thereby creating a Concurrency failure per CCC 40.350.020 (G)(1)(d). The failing approach is in the eastbound direction. The applicant's traffic study indicates that there are vehicle trips assigned to the failing approach at the NE 94th Avenue/NE 88th Street intersection.

The applicant submitted a letter volunteering mitigation at the intersection of NE 94th Avenue/NE 88th Street (Ex. 14). The applicant's traffic study shows that the proposed mitigation will offset the impacts of the Westminstershireville subdivision development so that the installation of a signal will not be required. Concurrency Staff reviewed the proposed mitigation and concurs with the applicant's recommendation of separate eastbound right and left-turn lanes at the intersection of NE 94th Avenue/NE 88th Street. According to staff's favorable review and recommendation, the applicant shall construct separate eastbound right and left-turn lanes at the intersection of NE 94th Avenue/NE 88th Street to offset the transportation impacts of the proposed Westminstershireville development. In particular, the applicant shall:

- Acquire right-of-way necessary to accommodate the volunteered improvements;
- Construct a 100-foot long, 12-foot wide eastbound right and left-turn lanes with appropriate lane taper lengths; and,
- Install related signing and striping associated with the volunteered improvement.

The applicant shall complete these mitigation measures and they shall be operational prior to occupancy of any building. See Condition F-1. If, however, the preliminary approval for the Rivendell Subdivision (PLD2007-42) is rescinded, the NE 94th Avenue/NE 88th Street intersection will not meet signal warrants and the above-described intersection improvements will not be necessary or required. See Condition F-1a.

Based on the findings and mitigation volunteered by the applicant, the Examiner concludes that this development can comply with adopted Concurrency Standards for unsignalized intersections. The County's model also evaluated the operating

levels, travel speeds and delay times for the regionally significant signalized intersections. This analysis showed that individual movements during peak hour traffic conditions had approach delays that did not exceed the maximum 240 seconds of delay in the 2012 build-out horizon. On this basis, the Examiner concludes that this development can comply with adopted Concurrency Standards.

Safety: Where applicable, a traffic study shall address the following safety issues:

- traffic signal warrant analysis,
- turn lane warrant analysis,
- accident analysis, and
- any other issues associated with highway safety.

Mitigation for off-site safety deficiencies may only be a condition of approval on development according to CCC 40.350.030(B)(6), which provides that "nothing in this section shall be construed to preclude denial of a proposed development where off-site road conditions are inadequate to provide a minimum level of service as specified in Section 40.350.020 or a significant traffic or safety hazard would be caused or materially aggravated by the proposed development; provided, that the applicant may voluntarily agree to mitigate such direct impacts in accordance with the provisions of RCW 82.02.020."

Finding 4 - Turn Lane Warrants: Turn lane warrants are evaluated at unsignalized intersections to determine if a separate left or right turn lane is needed on the uncontrolled roadway. The applicant's traffic study reviewed the site access for turn lane warrants and found that with the low traffic volumes, turn lanes would not be warranted at the studied intersection. Based on staff's favorable review and recommendation, the Examiner agrees with the traffic study findings.

Finding 5 - Historical Accident Situation: The applicant's traffic study analyzed the accident history within the vicinity of the site. The intersection accident rates do not exceed thresholds that would warrant additional analysis. Therefore, further analysis is *not* required.

STORMWATER:

Finding 1 – Applicability: The Stormwater and Erosion Control Ordinance (CCC chapter 40.380) applies to development activities that result in 2,000 sf or more of new impervious area within the urban area; the platting of single-family residential subdivisions in an urban area; and all land disturbing activities. This project will create more than 2,000 sf of new impervious surface, involves platting of a single-family residential subdivision, and is a land disturbing activity not exempt by CCC 40.380.030. Therefore, this development is subject to and shall comply with the Stormwater and Erosion Control Ordinance (CCC chapter 40.380). The erosion control ordinance is intended to minimize the potential for erosion; a plan is required for all projects meeting the applicability criteria listed in CCC 40.380.050. This project is subject to the erosion control ordinance.

Finding 2 – Stormwater Proposal: The applicant submitted a preliminary stormwater report (Ex. 6, tabs 16 & 17) that indicates a bioswale and detention facility will be used. These facilities are proposed to be publicly owned and maintained; however, as noted in Land Use Finding 3, publicly owned facilities cannot be located in the existing 60-foot wide unextinguished easement to the north. See Condition A-6e.

The preliminary stormwater report identifies a 100-year/24-hour storm precipitation depth as being 4 inches. The 10-year/24-hour storm event precipitation depth is 3.0 inches. The 2-year/24-hour storm event precipitation depth is identified as being 2.0 inches. Per CCC 40.380.040(C)(1)(g), the project shall not materially increase or concentrate stormwater runoff onto an adjacent property or block existing drainage from adjacent lots. See Condition A-6a. According to CCC 40.380.050 (B)(8), properties and waterways downstream from development sites shall be protected from erosion due to increases in the volume, velocity, and peak flow rate of stormwater runoff from the project site. Stormwater exiting a parcel shall be discharged with adequate energy dissipaters within the development site to prevent downstream damage according to CCC 40.380.040 (C)(1)(d). The applicant shall perform an offsite analysis extending a minimum of ¼ mile downstream from the development site in accordance with CCC 40.380.040(B)(2). See Condition A-6b.

If the applicant releases stormwater into the southeast corner of the site and to an existing culvert that is located under NE 107th Street, the flows shall not exceed the existing pre-developed flow rates for the southeastern portion of the site. It appears runoff from the southeast corner of the site currently drains into the culvert and the parcel #199635-002 to the south. See Condition A-6c. Curve numbers shall not be averaged when calculating stormwater water quality design flows. The applicant shall demonstrate that the predeveloped curve numbers used in the stormwater calculations comply with CCC 40.380.040 (C)(2)(b). See Condition A-6d.

FIRE PROTECTION:

Finding 1 – Fire Marshal Review: This application was reviewed by the Fire Marshal's Office, which provided comments and recommended conditions of approval. The applicant shall comply with those recommendations and implement those conditions. Where there is difficulty meeting these conditions or if additional information is required, the applicant shall contact the Fire Marshal's office immediately.

Finding 2 – Building Construction: Building construction occurring after this application shall comply with the provisions of the county's building and fire codes. Additional specific requirements may be imposed at the time of building construction as a result of the permit review and approval process. See Condition G-3.

Finding 3 – Fire Flow: Fire flow in the amount of 1,000 gallons per minute supplied at 20 psi for 60 minutes duration is required for this application. Information from the water purveyor indicates that the required fire flow is available at the site and is estimated at 1,500 gpm. See Conditions A-11a & B-1c.

Finding 4 – Fire Hydrants: Fire hydrants are required for this application. Either the indicated number or the spacing of the fire hydrants is inadequate. The applicant shall provide fire hydrants such that the maximum spacing between hydrants does not exceed 700 feet and no lot or parcel is farther than 500 feet from a fire hydrant as measured along approved fire apparatus access roads. Fire hydrants shall be provided with appropriate 'storz' adapters for the pumper connection. A 3-foot clear space shall be maintained around the circumference of all fire hydrants. The local fire district chief shall review and approve the exact locations of fire hydrants. The developer shall contact Chad Lawry at the Vancouver Fire Department at (360) 759-4418 to arrange for location approval. See Conditions A-11b & c.

Finding 5 – Fire Apparatus Access: The roadways and maneuvering areas as indicated in the application appear to meet the Clark County Road Standards. The applicant shall provide an unobstructed vertical clearance of not less than 13.5 feet, with an all weather driving surface and capable of supporting the imposed loads of fire apparatus. See Condition A-11d. Required fire apparatus turnarounds shall meet the requirements of the Road Standards.

HEALTH DEPARTMENT:

Finding 1: Submittal of a "Health Department Evaluation Letter" is required as part of the Final Construction Plan Review application. If the Evaluation Letter specifies that an acceptable "Health Department Final Approval Letter" must be submitted, the Evaluation Letter will specify the timing of when the Final Approval Letter must be submitted to the county, e.g., at Final Construction Plan Review, Final Plat Review or prior to occupancy. The Health Department Evaluation Letter will serve as confirmation that the Health Department conducted an evaluation of the site to determine if existing wells or septic systems are on the site, and whether any structures on the site have been/are hooked up to water and/or sewer. The Health Department Final Approval Letter will confirm that all existing wells and/or septic systems have been abandoned, inspected and approved by the Health Department (if applicable). See Condition A-10.

Finding 2 – Septic Abandonment: The existing well and septic system is proposed to be abandoned. The developer shall submit an acceptable "Health Department Final Approval Letter" to the county at the time specified in the evaluation letter. See Condition B-1b.

WATER & SEWER SERVICE:

Finding 1 – Providers: The site will be served by the City of Vancouver water district and Clark Regional Wastewater sewer district. Letters from the above districts confirm that services are available to the site. Water and sewer stubs are required to be extended to the north property line along NE 102nd Avenue. A copy of the final acceptance letter from the sewer and water purveyor should be submitted to the Health Department with the final plat mylar. The applicant shall comply with all requirements of the purveyors. See Condition D-8.

IMPACT FEES:

Finding 1 - Impact Fees: The site is located in Park Improvement District 6, the Battle Ground School District, and the North Orchards Transportation District. All new residential units constructed in this development (16 single-family units, which accounts for the existing home that will remain on Lot 11) will impose new service demands on the local schools, parks and transportation system. Therefore, all new residential units in this development are subject to the following impact fees authorized by CCC chapter 40.610 to defray the cost of serving this new demand, payable at the time of building permit issuance:

- (1) Park impact fee (PIF) for the Park Improvement District No. 6, which has a total PIF of \$1,543 per lot (\$1,103 for acquisition and \$440 for development)
- (2) Traffic impact fee (TIF) for the North Orchards Transportation District, which has a TIF of \$5,539 per lot
- (3) School impact fee (SIF) for the Battle Ground School District, which has a SIF of \$8,290 per lot.

All impact fees due shall be paid prior to the issuance of a building permit for each lot. If a building permit application is made more than 3 years following the date of this preliminary plat approval, the impact fee will be recalculated according to the then-current ordinance rate. See Conditions D-5d & E-1.

SEPA DETERMINATION

Based on the application materials and agency comments, staff determined that there were no probable significant adverse environmental impacts associated with this proposal that could not be avoided or mitigated through the conditions of approval listed below. Accordingly, the County, as the lead agency, determined that an environmental impact statement was not needed. The County issued and published its Determination of Nonsignificance for this project on June 3, 2009 (Ex. 9). No timely comments and no appeals were received by the comment and appeal deadline of June 17, 2009; therefore, the SEPA determination is final.

V. Decision and Conditions:

Based on the foregoing findings and except as conditioned below, this application is approved in general conformance with the developer's proposal, the preliminary plat and related plans (Exs. 5 & 6) as subsequently revised (Ex. 12) and the voluntary mitigation (Ex. 14). This approval is granted subject to the requirements that the developer, owner or subsequent developer (the "developer") shall comply with all applicable code provisions, laws and standards and the following conditions. These conditions shall be interpreted and implemented consistently with the foregoing findings.

A	Final Construction Plan Review for Land Division Review & Approval Authority: Development Engineering
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Prior to construction, a Final Construction shall be submitted for review and approval, consistent with the approved preliminary plan and the following conditions of approval:

- A-1 Transportation (Concurrency)** – The developer shall submit a signing and striping design for review and approval to the Public Works Transportation Division. This design shall show signing and striping and all related features for required frontage and offsite road improvements. The offsite road improvements will include signing and striping for the intersection of NE 88th Street/NE 94th Avenue. The developer shall obtain a Work Order with Clark County to reimburse the County for the signing and striping changes needed along the frontage of this development and any offsite road improvements. This work order shall be obtained unless directed otherwise by the Director of Public Works.
- A-2 Final Transportation Plan/On-Site** - The developer shall submit and obtain County approval of a final transportation design in conformance with CCC chapter 40.350 and the following additional requirements:
- The developer shall provide clear space behind the sidewalk of NE 102nd Avenue per the local access road cross-sections. The minimum intersection curb return radius that is required is 25 feet for a local residential access road.

- b. Per CCC 40.350.030 (B)(5)(a)(5), parking shall be prohibited along partial width roads, with signs and pavement markings being the responsibility of the developer.
- c. Per CCC 40.350.030 (B)(4)(b)(1)(b), corner lot driveways shall be a minimum separation of 50 feet from the intersecting property lines or where this is impractical, the driveway may be located 5 feet from the property line away from the intersection or as a joint use driveway at this property line.
- d. The developer shall comply with sight distances requirements found in CCC 40.350.030(B)(8). See Transportation Finding 4.

A-3 Final Transportation Plan/Off site – The developer shall ensure that NE 107th Street and NE 94th Avenue shall, at a minimum, have an unobstructed and paved roadway width of 20 feet, except in those cases where the pre-existing road is 18 feet wide with one-foot wide shoulders in which additional widening to the 20 foot standard is not necessary. Any pre-existing roadway narrower than 18 feet with one-foot shoulders shall be widened to the full 20 foot standard. See Transportation Finding 3.

A-4 Final Construction Plan – The developer shall submit and obtain County approval of a final construction plan in conformance with CCC chapter 40.350 and the following additional requirement:

Archaeology - A note shall be placed on the face of the final construction plans that states: "If any cultural resources and/or human remains are discovered in the course of undertaking the development activity, the Office of Archaeology and Historic Preservation in Olympia and Clark County Community Development shall be notified. Failure to comply with these State requirements may constitute a Class C Felony, subject to imprisonment and/or fines." See Archaeology Finding.

A-5 Transportation: The developer shall submit and obtain written approval of a Traffic Control Plan (TCP) prior to issuance of any building or grading permits for the development site, which shall govern all work within or impacting the public transportation system.

A-6 Final Stormwater Plan - The developer shall submit and obtain County approval of a final stormwater plan designed in conformance with CCC chapter 40.380 and the following additional requirements:

- a. Per CCC 40.380.040(C)(1)(g), the project shall not materially increase or concentrate stormwater runoff onto an adjacent property or block existing drainage from adjacent lots.
- b. According to CCC 40.380.050 (B)(8), properties and waterways downstream from development sites shall be protected from erosion due to increases in the volume, velocity, and peak flow rate of stormwater runoff from the project site. Stormwater exiting a parcel shall be discharged with adequate energy dissipaters within the development site to prevent downstream damage according to CCC 40.380.040 (C)(1)(d). An offsite analysis extending a minimum of ¼ mile

downstream from the development site in compliance with the provisions of CCC 40.380.040(B)(2) is required.

- c. If the developer releases stormwater into the southeast corner of the site and to an existing culvert that is located under NE 107th Street, the flows shall not exceed the existing pre-developed flow rates for the southeastern portion of the site.
- d. Curve numbers shall not be averaged when calculating stormwater water quality design flows. The developer shall demonstrate that the predeveloped curve numbers used in the stormwater calculations comply with CCC 40.380.040 (C)(2)(b).
- e. Stormwater facilities shall not be located within the 60-foot wide easement unless they are privately maintained. See Land Use Finding 3 and Stormwater Finding 2

A-7 Erosion Control Plan - The developer shall submit and obtain County approval of a final erosion control plan designed in accordance with CCC 40.380

A-8 Excavation and Grading - Excavation/grading shall be performed in compliance with CCC chapter 14.07.

A-9 Final Landscape Plan - The developer shall submit and obtain county approval of a final landscape plan consistent with the approved preliminary landscape plan. The landscape plan shall include landscaping within the public Rights-of-Ways and on-site.

A-10 Health Department Review - Submittal of a "Health Department Project Evaluation Letter" is required as part of the Final Construction Plan Review or early grading application. If the Evaluation Letter specifies that certain actions are required, the Evaluation Letter will specify the timing of when those activities must be completed, e.g., prior to Final Construction Plan Review, construction, Provisional Acceptance, Final Plat Review, building permit issuance, or occupancy, and approved by the Health Department. See Health Department Finding 1.

A-11 Fire Marshal Requirements: The developer shall implement or otherwise comply with the following conditions related to fire requirements:

- a. Fire Flow: Fire flow in the amount of 1000 gallons per minute supplied at 20 psi for 60 minutes duration is required for this application. A utility review from the water purveyor indicates that the required fire flow is available at the site. Additions to water mains supplying fire flow and fire hydrants shall be installed, approved and operational prior to final plat approval. See Fire Protection Finding 3.
- b. Fire hydrants are required for this application. The developer shall provide fire hydrants such that the maximum spacing between hydrants does not exceed 700 feet and such that no lot or parcel is in excess of 500 feet from a fire hydrant as measured along approved fire apparatus access roads.

- c. Fire hydrants shall be provided with appropriate 'storz' adapters for the pumper connection. A 3-foot clear space shall be maintained around the circumference of all fire hydrants. The local fire district chief approves the exact locations of fire hydrants. See Fire Protection Finding 4.
- d. Fire Apparatus Access: Fire apparatus access is required for this application. The roadways and maneuvering areas as indicated in the application shall meet the requirements of the Clark County Road Standard. The developer shall provide an unobstructed vertical clearance of not less than 13.5 feet, with an all weather driving surface capable of supporting the imposed loads of fire apparatus. See Fire Protection Finding 5.

B	Prior to Construction of Development Review & Approval Authority: Development Inspection
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Prior to construction, the following conditions shall be met:

- B-1 Pre-Construction Conference** - Prior to construction or issuance of any grading or building permits, the developer shall schedule and attend a pre-construction conference shall be held with the County and comply with the following additional requirements:
 - a. Prior to construction, demarcation of existing septic and water well systems, and underground tanks shall be established.
 - b. Prior to site construction, abandonment of septic systems, water wells and underground tanks shall be decommissioned in accordance with the procedures of the Clark County Health Department. See Health Department Finding 2.
 - c. Prior to construction, fire flow in the amount of 1,000 gallons per minute supplied for 60 minutes duration is required for this application. Additions to water mains supplying fire flow and fire hydrants shall be installed, approved and operational prior to final plat approval. See Fire Protection Finding 3.
- B-2 Erosion Control** - Prior to construction, erosion/sediment controls shall be in place. Sediment control facilities shall be installed that will prevent any silt from entering infiltration systems. Sediment controls shall be in place during construction and until all disturbed areas are stabilized and any erosion potential no longer exists.
- B-3 Erosion Control** - Erosion control facilities shall not be removed without County approval.

D	Final Plat Review & Recording Review & Approval Authority: Development Engineering
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Prior to final plat approval and recording, the following conditions shall be met:

- D-1 Developer Covenant** – A “Developer Covenant to Clark County” shall be submitted for recording to include the following:

- a. Critical Aquifer Recharge Areas - "The dumping of chemicals into the groundwater and the use of excessive fertilizers and pesticides shall be avoided. Homeowners are encouraged to contact the State Wellhead Protection program at (206) 586-9041 or the Washington State Department of Ecology at 800-RECYCLE for more information on groundwater /drinking supply protection."
- b. Erosion Control - "Building Permits for lots on the plat shall comply with the approved erosion control plan on file with Clark County Building Department and put in place prior to construction."

D-2 Plat Notes - The following notes shall be placed on the final plat:

- a. Sidewalks: "Prior to issuance of occupancy permits, sidewalks shall be constructed along all the respective lot frontages."
- b. Utilities: "An easement is hereby reserved under and upon the exterior 6 feet at the front boundary lines of all lots for the installation, construction, renewing, operating and maintaining electric, telephone, TV, cable, water and sanitary sewer services. Also, a sidewalk easement, as necessary to comply with ADA slope requirements, shall be reserved upon the exterior 6 feet along the front boundary lines of all lots adjacent to public streets."
- c. Driveways: "No direct access is allowed onto the following streets: NE 107th Street"
- d. Driveways: "All residential driveway approaches entering public roads are required to comply with CCC 40.350."
- e. Temporary Turnaround: "The following party(s) is responsible for removal of the onsite temporary turnaround and construction of sidewalk in this location: _____."
- f. Mobile Homes: "Mobile homes are not permitted on lots."
- g. Privately Owned Stormwater Facilities: "The following party(s) is responsible for long-term maintenance of the privately owned stormwater facilities: _____."
- h. Shared Driveways: "Lot(s) __ (and __) shall not be provided access to the shared driveway that provide access to Lots 15 and 16". (See *Land Use Finding 4*)

D-3 Health Department Signature Requirement – The Health Department is not required to sign the final plat, unless the use of well or septic systems is proposed.

D-4 Abandonment of On-Site Water Wells and Sewage Systems – The location of abandoned septic tanks and decommissioned wells shall be shown on the face of the final plat.

D-5 Developer Covenant – A "Developer Covenant to Clark County" shall be submitted for recording to include the following:

- a. Critical Aquifer Recharge Areas: "The dumping of chemicals into the groundwater and the use of excessive fertilizers and pesticides shall be avoided. Homeowners are encouraged to contact the State Wellhead Protection program at (206) 586-9041 or the Washington State Department of Ecology at 800-RECYCLE for more information on groundwater /drinking supply protection."
- b. Erosion Control - "Building Permits for lots on the plat shall comply with the approved erosion control plan on file with Clark County Building Department and put in place prior to construction."
- c. Responsibility for Stormwater Facility Maintenance: For stormwater facilities for which the county will not provide long-term maintenance, the developer shall make arrangements with the existing or future (as appropriate) occupants or owners of the subject property for assumption of maintenance to the county's Stormwater Facilities Maintenance Manual as adopted by Chapter 13.26A. The responsible official prior to county approval of the final stormwater plan shall approve such arrangements. Final plats shall specify the party(s) responsible for long-term maintenance of stormwater facilities within the Developer Covenants to Clark County. The county may inspect privately maintained facilities for compliance with the requirements of this chapter. If the parties responsible for long-term maintenance fail to maintain their facilities to acceptable standards, the county shall issue a written notice specifying required actions to be taken in order to bring the facilities into compliance. If these actions are not performed in a timely manner, the county shall take enforcement action and recover from parties responsible for the maintenance in accordance with CCC 32.04.060.
- d. Impact Fees: "In accordance with CCC chapter 40.610, the following School (SIF), Park (PIF) and Traffic (TIF) Impact Fees shall be paid for each dwelling in this subdivision:
 - SIF of \$8,290 per dwelling for Battle Ground School District;
 - PIF of \$1,543 per dwelling for Park District 6 (\$1,103 for acquisition and \$440 for development), and
 - TIF of \$5,539 per dwelling for North Orchards Impact Fee area.
 The impact fees for lots on this plat shall be fixed for a period of three years, beginning from the date of preliminary plat approval, dated _____, and expiring on _____. Impact fees for permits applied for more than three years following plat approval shall be recalculated using the then-current regulations and fees schedule."

D-6 Addressing - At the time of final plat, the existing residence that will remain may be subject to an address change. Addressing will be determined based on point of access.

D-7 Verification of the Installation of Required Landscape: Prior to approval of a final plat, the developer shall provide verification in accordance with CCC 40.320.030(B) that the required right of way landscape along NE 107th Street has been installed in accordance with the approved landscape plan. See Land Use Finding 2.

D-8 Public Sewer and Water: All lots in the proposed plat must connect to an approved public sewer and water systems. A copy of the final acceptance letter

from the sewer and water purveyor shall be submitted to the Health Department with the final plat mylar. The developer shall comply with all requirements of the purveyor. See Water and Sewer Finding 1.

E	Building Permits Review & Approval Authority: Customer Service
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Prior to issuance of a building permit, the following conditions shall be met:

E-1 Impact Fees – All new residential units in this development (16 single-family units, which accounts for the existing home that will remain on Lot 11) are subject to the following impact fees authorized by CCC chapter 40.610 to defray the cost of serving this new demand. The developer shall pay the following impact fees at the time of building permit issuance:

- (1) Park impact fee (PIF) for the Park Improvement District No. 6, which has a total PIF of \$1,543 per lot (\$1,103 for acquisition and \$440 for development)
- (2) Traffic impact fee (TIF) for the North Orchards Transportation District, which has a TIF of \$5,539 per lot
- (3) School impact fee (SIF) for the Battle Ground School District, which has a SIF of \$8,290 per lot.

If a building permit application is made more than 3 years following the date of this preliminary plat approval, the impact fee will be recalculated according to the then-current ordinance rate.

F	Occupancy Permits Review & Approval Authority: Building
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Prior to issuance of an occupancy permit, the following conditions shall be met:

F-1 Transportation (Concurrency) – The developer shall construct an eastbound right and left-turn lane at the intersection of NE 94th Avenue/NE 88th Street. This construction shall include a 100-foot long, 12-foot wide eastbound right and left-turn lanes with appropriate lane taper lengths and related signing and striping associated with the volunteered improvement. All work shall be completed and operational prior to occupancy unless modified by the Public Works Director.

- a. Alternative to the mitigation: The mitigation measures to the intersection of NE 94th Avenue and NE 88th Street described in the foregoing condition are both required in order for this intersection to meet the basic safe operational requirements of CCC Title 40. To the extent this project is found to be in compliance with the concurrency chapter following the removal of trips at this intersection, *e.g.*, in the event the Rivendell Subdivision (PLD2007-42) approval is rescinded, the public works staff shall upon confirmation of concurrency compliance remove the above-described concurrency mitigation measures.

F-2 Landscaping: Prior to the issuance of a certificate of occupancy for the applicable lot, a letter from a licensed landscape architect must be provided which verifies that the required landscaping has been installed in compliance with the approved landscape plan. The affected lots are those abutting the north property boundary, and along the right of way of NE 102nd Avenue.

G	Development Review Timelines & Advisory Information Review & Approval Authority: None - Advisory to Developer
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G-1 Land Division - Within 5 years of preliminary plan approval, the developer shall submit a Fully Complete application for Final Plat review, after which the preliminary plat approval shall automatically expire.

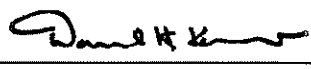
G-2 DOE Stormwater Permit - A stormwater permit from the Department of Ecology (DOE) is required if both of the following conditions occur:

- a. The construction project disturbs one or more acres of land through clearing, grading, excavating, or stockpiling of fill material; AND
- b. There is a possibility that stormwater could run off the development site during construction and into surface waters or conveyance systems leading to surface waters of the state.

The cumulative acreage of the entire project whether in a single or in a multiphase project will count toward the 1-acre threshold. This applies even if the developer is responsible for only a small portion (less than one acre) of the larger project planned over time. The developer shall Contact the DOE for further information.

G-3 Building and Fire Safety: Building and Fire, Life, and Safety requirements shall be addressed through specific approvals and permits. This decision may reference general and specific items related to structures and fire, life, and safety conditions, but they are only for reference in regards to land use conditions. It is the responsibility of the owner, agent, tenant, or applicant to insure that Building Safety and Fire Marshal requirements are in compliance or brought into compliance. Land use decisions do not waive any building or fire code requirements.

Date of Decision: August 3, 2009.

By: 
Daniel Kearns,
Land Use Hearings Examiner

NOTE: Only the Decision and Conditions of approval, if any, are binding on the applicant, owner or subsequent developer of the subject property as a result of this Order. Other parts of the final order are explanatory, illustrative or descriptive. There may be requirements of local, state or federal law or requirements which reflect the intent of the applicant, county staff, or the Hearings Examiner, but they are not binding on the applicant as a result of this final order unless included as a condition of approval.

Notice of Appeal Rights

An appeal of any aspect of the Hearings Examiner's decision, except the SEPA determination, may be appealed to the Board of County Commissioners only by a party

of record. A party of record includes the applicant and those individuals who signed the sign-in sheet or presented oral testimony at the public hearing or submitted written testimony prior to or at the public hearing on this matter.

Any appeal of the final land use decisions shall be filed with the Board of County Commissioners, 1300 Franklin Street, Vancouver, Washington, 98668 within 14 calendar days from the date the notice of final land use decision is mailed to parties of record.

Any appeal of the Land Use Hearings Examiner's final land use decision shall be in writing and contain the following:

1. The case number designated by the County and the name of the applicant;
2. The name and signature of each person or group (petitioners) and a statement showing that each petitioner is entitled to file an appeal as described under Section 18.600.100A) of the Clark County Code. If multiple parties file a single petition for review, the petition shall designate one party as the contact representative with the Development Services Manager. All contact with the Development Services Manager regarding the petition, including notice, shall be with this contact person;
3. The specific aspect(s) of the decision and/or SEPA issue being appealed, the reasons why each aspect is in error as a matter of fact or law, and the evidence relied on to prove the error;
4. If the petitioner wants to introduce new evidence in support of the appeal, the written appeal must also explain why such evidence should be considered, based on the criteria in subsection 18.600.100(D)(2); and
5. A check in the amount of \$716 (made payable to the Clark County Board of County Commissioners) must accompany an appeal to the Board.



HEARING EXAMINER EXHIBITS

APPLICATION: WESTMINSTERSHIREVILLE SUBDIVISION

CASE NUMBERS: PLD2009-00022; SEP2009-00038

Hearing Date: July 23, 2009

EXHIBIT NO.	DATE	SUBMITTED BY	DESCRIPTION
1		CC Development Services	Aerial Map
2		CC Development Services	Vicinity Map
3		CC Development Services	Zoning Map
4		CC Development Services	Comprehensive Plan Map
5	5/6/09	Applicant, Minister Glaeser Surveying Inc.	Proposed Development Plan, Preliminary Stormwater Plan, Preliminary Boundary Survey, Preliminary Topographic Survey, Preliminary Landscape Plan
6	5/6/09	Applicant, Minister Glaeser Surveying Inc.	<ol style="list-style-type: none"> 1. Table of Contents 2. Application Form 3. Preapplication Conference Report 4. Developer's GIS Packet 5. Project Narrative 6. Sales History 7. Approved Preliminary Plat – Rivendell 8. Traffic Study 9. School Letter 10. SEPA Checklist 11. Water Utility Review 12. Sewer Utility Review 13. Archaeological Predetermination 14. DAHP Confirmation Email 15. Wetland Report 16. Preliminary Drainage Report 17. Preliminary Stormwater Plan 18. Preliminary Boundary Survey 19. Preliminary Topographic Survey 20. Preliminary Landscape Plan 21. Proposed Development Plan
7	5/20/09	CC Development Services	Fully Complete Determination
8	6/3/09	CC Development Services	Affidavit of Mailing Public Notice

EXHIBIT NO.	DATE	SUBMITTED BY	DESCRIPTION
9	6/3/09	CC Development Services	Notice of Type III Development Review Application, Optional SEPA Determination of Non-Significance & Public Hearing
10	6/5/09	Steve Howell	Comment Letter
11	6/18/09	Applicant, Minister Glaeser Surveying Inc.	Offsite Drainage Culvert Photos
12	6/19/09	Applicant, Minister Glaeser Surveying Inc.	Revised Proposed Development Plan
13	6/22/09	David Bottamini, PW	Re: Stormwater Direction and Sizing
14	6/24/09	Applicant, Minister Glaeser Surveying Inc.	Voluntary Concurrency Letter
15	7/1/09	CC Development Services	Legal Notice to Paper Published 7/8/09
16	7/7/09	CC Development Services	Affidavit of Posting
17	7/7/09	CC Development Services	Staff Report written by Jan Bazala
18	7/10/09	Applicant, Minister Glaeser Surveying Inc.	Applicants Affidavit of Posting
19	7/23/09	CC Development Services	Power Point Pictures

Copies of these exhibits can be viewed at:

Department of Community Development / Planning Division
1300 Franklin Street
Vancouver, WA 98666-9810